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PUC PROJECT NO. 51840

RULEMAKING ESTABLISHING ELECTRIC WEATHERIZATION STANDARDS	**§ § §**	**BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS**

LOWER COLORADO RIVER AUTHORITY'S COMMENTS ON THE PROPOSAL FOR PUBLICATION FOR NEW 16 TAC § 25.55

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

The Lower Colorado River Authority (LCRA) respectfully submits the following comments to the Proposal for Publication (PFP) for New 16 TAC § 25.55 as Approved at the August 26, 2021 Work Session and published in the *Texas Register* on September 10, 2021.

I. EXECUTIVE SUMMARY

- The Commission should not adopt the term "cold weather critical component" or the proposed definition. "Cold weather critical component" is neither a statutory nor an industry standard term and does not align with the substantive requirements of the rule, which otherwise generally track to the 2012 Quanta Technology Report on Extreme Weather Preparedness Best Practices ("Quanta Report"). Put simply, this concept in the draft rule improperly conflates components that are designed to *prevent* freezing with components that are *susceptible* to freezing, posing a number of problems from the standpoint of implementing a rule that is expressly designed to focus on preparation, not performance.
- Changes are needed to subsection (c)(1)(C) to ensure that the rule is not interpreted to require a generation entity to redesign or reconstruct a facility. Again, the focus of Senate Bill 3 and the rule to be adopted in this proceeding concerns how best to prepare a unit to perform in winter weather conditions. As a matter of law and policy, this should not equate

to a requirement that a resource owner must take "any action" to ensure that the facility operates, without regard to the unit's existing design and whether conditions exceed those design parameters. The Commission should be explicit in the Proposal for Adoption that no provision of the rule will be interpreted as requiring a generation entity to redesign any subsystem of an existing generation facility.

- The Commission should make other conforming changes to subsections (c)(1), (c)(6), and (e) to bring the rule in line with the requirements of Senate Bill 3.

II. COMMENTS BY SECTION

Subsection (b) Definitions

The PFP proposes a new term, "cold weather critical component," that is not in alignment with the analysis and recommendations in the Quanta Report. Use of this term in the 16 TAC § 25.55 will introduce serious uncertainty into winter weather preparations for the upcoming winter season.

As defined in the PFP, a "cold weather critical component" includes "[a]ny component that is susceptible to freezing, the occurrence of which is likely to lead to unit trip, derate, or failure to start." However, any component of a generating facility that malfunctions or fails could theoretically lead to a unit trip, derate, or failure to start, and any component could theoretically be susceptible to freezing (or could malfunction in freezing conditions). Therefore, by defining "cold weather critical component" to include potentially every component among the millions of individual components that make up a generating facility, the PFP creates an impossibly broad and unenforceable standard that provides generators no clarity in understanding what preparations need to be undertaken to prepare their facilities for winter operation.

Importantly, the Quanta Report discusses in detail "freeze protection components"—rather than "components susceptible to freezing"—and recommends that generators undertake a range of specific preparations to ensure optimal unit performance during freezing weather conditions. These recommendations include installing specific types of freeze protection components, including heat tracing for potentially exposed instrumentation sensing lines and transmitters, as well as installation of thermal enclosures, and having a detailed maintenance and testing plan for freeze protection components.[1] It is not clear whether the PFP intends to adopt those recommendations because the concept of "cold weather critical components" does not appear anywhere in the Quanta Report, and the PFP provides no context or basis for the use of this new term.

This conflict between the PFP and the Quanta Report is important to resolve because one of the primary substantive requirements of the phase one weather emergency preparedness standards is for a generation entity to take "all preparations necessary to ensure the sustained operation of all *cold weather critical components* during winter weather conditions." As drafted, this language equates to a requirement to ensure that no component of a generator fails due to winter weather conditions (freezing temperatures, wind, freezing precipitation, etc.) for the duration of the winter season, no matter how extreme or for how long the winter weather conditions persist. A rule that flat-out prohibits any weather-related equipment failure would not be consistent

[1] Quanta Report at 16. Separately, the Quanta Report discusses "critical plant components," which are components that are essential to the operation of the facility, *id.* at 30, and which Quanta recommends be addressed in the checklists provided to plant personnel to ensure all such failure points are addressed prior to and during the onset of extreme weather, *id.* at 9.

with the Commissioners' repeated admonitions that the rule must require "preparation, not performance"—nor would such a strict liability requirement comport with Senate Bill 3.[2]

Because the proposed definition of "cold weather critical component" creates uncertainty and is problematic when read in conjunction with other sections of the rule, LCRA recommends deleting the defined term from subsection (b) and modifying other requirements in subsection (c) to better capture the Commission's intent to require robust winter preparations.

Subsection (c) Phase one weather emergency preparedness reliability standards for a generation entity

In this section of the rule, the PFP requires, by December 1 of this year, a generation entity to engage in several specific types of winter preparations, perform training, and compile its units' design and operating parameters. LCRA addresses each of these sub-requirements in turn.

(c)(1)(A) PFP Language:

(A) All preparations necessary to ensure the sustained operation of all cold weather critical components during winter weather conditions, such as chemicals, auxiliary fuels, and other materials, and personnel required to operate the resource;

As discussed above, LCRA recommends that the Commission delete the defined term "cold weather critical components" and move the concept of freeze-susceptible components into subsection (c)(1)(A), along with modifications to better track the Quanta Report and offer more specificity as to what preparations are required. In addition, LCRA supports further modifications to improve clarity, fix grammatical and syntax errors, and make the rule language capable of being implemented.

[2] Senate Bill 3 requires, in relevant part: "The commission by rule shall require each provider of electric generation service described by Subsection (a) ***to implement measures to prepare the provider's generation assets*** to provide adequate electric generation service during a weather emergency according to reliability standards adopted by the commission." Tex. Util. Code § 35.0021(b) (emphasis added).

LCRA Redline of (c)(1)(A):

> All **maintenance and testing** preparations necessary to ensure **the operating integrity of all freeze protection components, preparations to protect other materials known to freeze,** ~~**the sustained operation of all cold weather critical components during winter weather conditions,**~~ such as chemicals~~,~~ **and** auxiliary fuels, ~~**and other materials,**~~ and **staffing plans to ensure** personnel required to operate the resource **are available during winter weather conditions**;

(c)(1)(B) PFP Language:

(B) Installation of adequate wind breaks for resources susceptible to outages or derates caused by wind; enclosure of sensors for cold weather critical components; inspection of thermal insulation for damage or degradation and repair of any damaged or degraded insulation; confirmation of the operability of instrument air moisture prevention systems; maintenance of freeze protection components for all equipment, including fuel delivery systems, the failure of which could cause an outage or derate, and establishment of a schedule for testing of such freeze protection components on an ongoing monthly basis; and the installation of monitoring systems for cold weather critical components, including circuitry providing freeze protection or preventing instrument air moisture;

In general, LCRA supports this section of the PFP with the following modifications:

- First, not every critical component that may be susceptible to freezing (a so-called "cold weather critical component") requires an enclosed sensor, and it would be arbitrary to require this, particularly given the potentially expansive interpretation of "cold weather critical component" that the PFP currently permits.
- Second, not every individual piece of equipment has its own freeze protection components (particularly those that have not historically experienced freezing), so the rule should not require a generator to maintain freeze protection components "for all equipment." Within the same sub-requirement, the Commission should clarify that the generator is responsible only for those fuel delivery systems that it *owns and operates*;
- Third, it is clear in the context of the installation of monitoring systems that the PFP should refer to "freeze protection components" rather than to monitoring systems

for "cold weather critical components" for all the reasons that have been discussed previously that "cold weather critical component" is not a useful or meaningful term.

LCRA Redline of (c)(1)(B):

(B) Installation of adequate wind breaks for resources susceptible to outages or derates caused by wind; enclosure of sensors for ~~**cold weather critical**~~ **appropriate** components; inspection of thermal insulation for damage or degradation and repair of any damaged or degraded insulation; confirmation of the operability of instrument air moisture prevention systems; maintenance of freeze protection components ~~**for all equipment**~~, including fuel delivery systems **that are owned and operated by the generation entity**, the failure of which could cause an outage or derate, and establishment of a schedule for testing of such freeze protection components on an ongoing monthly basis; and the installation of monitoring systems for **freeze protection** ~~**cold weather critical**~~ components, including circuitry providing freeze protection or preventing instrument air moisture;

(c)(1)(C) PFP Language:

(C) All actions necessary to prevent a reoccurrence of any cold weather critical component failure that occurred in the period between November 30, 2020, and March 1, 2021;

A rule that requires a generator to take "all actions" to prevent a weather-driven failure that resulted in a unit trip or de-rate exceeds the Commission's statutory authority under Senate Bill 3. Senate Bill 3 does not allow the Commission to impose a performance mandate; instead, it permits the Commission to require a generator to "implement measures to prepare [its] generation assets." Preparation—as the Commission has repeatedly pointed out—is not the same as requiring performance at any cost.

Most importantly, the rule should not require a generator to redesign or reconstruct its facility, as a matter of both statutory authority and public policy. While, theoretically, a generator could take "an action" that fundamentally alters the design of a unit, so that the unit is no longer subject to the same design or operating constraints that resulted in a prior weather-related failure, this was not the Legislature's intent, and the Commission should be cautious not to adopt a rule

susceptible to that interpretation. **Regardless of the specific language that is adopted in the rule, the Commission should be explicit in the Proposal for Adoption that no provision of the rule will be interpreted as requiring a generation entity to redesign any subsystem of an existing generation facility.**

Moreover, whether a unit will perform may be due to factors beyond the generator's reasonable control (e.g., fuel supply chain failures), so the rule language should be very clear that only the conduct of the generator—and not unrelated third parties—is within the Commission's purview.

For all these reasons, the Commission should revise the PFP to require a generation entity to take reasonable preparations, rather than all actions, to avoid recurrence of weather-related failures from this past winter.

LCRA Redline of (c)(1)(C):

> All **reasonable preparations within the generation entity's control designed** ~~**actions necessary**~~ to prevent a reoccurrence of ~~**any cold weather critical component**~~ **an equipment** failure that occurred **due to winter weather conditions** in the period between November 30, 2020, and March 1, 2021;

(c)(1)(D) PFP Language:

(D) Provision of training on winter weather preparations to operational personnel;

LCRA has no comments on this subsection.

(c)(1)(E) PFP Language:

(E) Determination of minimum design temperature, minimum operating temperature, and other operating limitations based on temperature, precipitation, humidity, wind speed, and wind direction.

For a December 1, 2021 compliance deadline to be feasible, the PFP should be revised to permit a generation entity to determine either the minimum design or minimum operating temperature or other operating limitations of a unit. As the Quanta Report repeatedly emphasizes,

weatherization begins with understanding "generating plants[']] design limits regarding weather. While there are many components to a generating plant that can fail during extreme weather, knowing the actual design limit is essential to developing a plan for operating during extreme weather."[3]

LCRA strongly agrees that an effective program must take into account the unique design and experience of each unit on a case-by-case basis. Accordingly, LCRA has developed weatherization procedures that account for its units' operational history and, where applicable, their original design parameters. As the Commission is aware, much of the dispatchable fleet in ERCOT is legacy generation. Today, more than 50 percent of the generating capacity in ERCOT is produced by units that are more than 20 years old, and 42 percent of the capacity is produced from units that are 30 years or older. For units that were commissioned many decades ago, subsequent operational experience may diverge significantly from the units' original design criteria, while many units may never have had specific design temperature parameters, either for the unit as a whole or for its major systems or subsystems. A determination of the full range of operating limitations based on factors such as precipitation, humidity, wind speed, and wind direction would require a complete engineering evaluation that may never have been performed, and cannot be completed by December 1. Because the data that is available or relevant for each unit may vary, and in light of the quickly approaching December 1 deadline for compliance, LCRA recommends that the Commission modify the rule to provide appropriate flexibility for this component of the rule.

[3] Quanta Report at 9.

LCRA Redline of (c)(1)(E):

(E) Determination of minimum design temperature **or**~~,~~ minimum operating temperature **or**~~,~~ ~~**and**~~ other **historical** operating limitations based on temperature, precipitation, humidity, wind speed, and wind direction.

Subsection (c)(6) Good cause exception

LCRA does not object to the inclusion of a procedure for submitting a good cause exception to a requirement in subsection (c)(1), but urges that the Commission not interpret its comments with regard to subsection (c)(1)(C) to implicate this procedure. Specifically, the Commission should not require a generation entity to take an action that amounts to the redesign or reconstruction of its facility, or otherwise submit a request for good cause to postpone such action. To be clear, in the instance where the design of a generation facility makes it inherently susceptible to certain extreme weather conditions, and no amount of preparations or maintenance activities (such as installing heaters, wind breaks, heat tracing, or other devices) are sufficient to resolve the issue, under no circumstance should 16 TAC § 25.55 require the facility owner to rebuild the unit. The good cause exception procedure simply would not apply, as the issue is not whether the unit can be redesigned or reconstructed by an extended deadline, but whether it is prudent and economical to do so at all.

Subsection (e) Weather-related failures by a generation entity to provide service

The Commission should strike the portions of the PFP that are contrary to the language of Senate Bill 3. The Legislature was clear that a third-party assessment may only be required for "repeated or major weather-related forced interruptions of service," and the rule language should not attempt to enlarge this condition. Further, under those circumstances when a third-party assessment can be required, Senate Bill 3 states that the generation entity must contract with a person "who is not an employee of the provider." The PFP language extends that prohibition to an employee of the provider's "affiliate" and adds an entirely new condition that the person must not

have "participated in previous assessments for the resource to assess its weather emergency preparation measures, plans, procedures, and operations." This unwarranted expansion of the employee restriction ignores basic realities that qualified professionals often move between utilities and industry consultants—not to mention imposes an unlawful restraint of trade.

LCRA Redline of (e):

(e) **Weather-related failures by a generation entity to provide service.** For a generation entity with a resource that experiences repeated or major weather-related forced interruptions of service, ~~**including forced outages, derates, or maintenance-related outages,**~~ the generation entity must contract with a qualified professional engineer who is not an employee of the generation entity ~~**or its affiliate and who has not participated in previous assessments for the resource to assess its weather emergency preparation measures, plans, procedures, and operations**~~. The generation entity must submit the qualified professional engineer's assessment to the commission and ERCOT. ERCOT must adopt rules that specify the circumstances for which this requirement applies and specify the scope and contents of the assessment. A generation entity to which this subsection applies may be subject to additional inspections by ERCOT. ERCOT must refer to the commission for enforcement any generation entity that violates this rule and fails to cure the identified deficiencies within a reasonable period of time.

III. CONCLUSION AND PRAYER

LCRA appreciates the Commission's diligence in working to develop a weatherization rule that adheres to the Legislature's directives in Senate Bill 3, and asks that the Commission make the changes identified in these comments to ensure that the final rule is clear, effective, and capable of being implemented.

Respectfully submitted,

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